

the Payphone Order and the Reconsideration Order, any basic services provided by a BOC to its payphone affiliate, as well as any payphone service provided to others, must be available on a nondiscriminatory basis to other payphone providers.<sup>72</sup>

25. In its CEI plan, PacTel represents that its "payphone service operations will take all basic services at unbundled tariffed rates."<sup>73</sup> We therefore find that PacTel's CEI plan comports with the resale requirement. We are not persuaded by Telco's argument that PacTel's plan is insufficient, because it "fails to provide any specificity as to what combinations will be offered for resale, whether resale will be offered on a nondiscriminatory basis, or what mechanisms will exist to enable competitors to ensure that resale obligations are being met."<sup>74</sup> We find that PacTel's representation that all basic services provided to its payphone operations will be available, pursuant to tariffed arrangements, to all PSPs, is sufficient to meet this CEI requirement. It is not required to provide in its CEI plan the level of detail sought by Telco in order to comply with the resale CEI requirement. To the extent that Telco's objections are based on concerns that PacTel's tariffed payphone offerings unlawfully discriminate against unaffiliated PSPs, such specific, fact-based claims should be addressed in federal or state tariff proceedings or in a formal complaint action against PacTel.

#### 4. Technical Characteristics

26. This requirement obligates a carrier to provide basic services with technical characteristics that are equal to the technical characteristics the carrier uses for its own payphone services.<sup>75</sup>

27. PacTel represents that it will use the same tariffed basic services to provide payphone services as are available to its payphone competitors, and that the technical characteristics of the basic services provided to independent PSPs will be equal to those of the basic services used for PacTel's own payphone service operations.<sup>76</sup> Telco does not challenge this representation, but asserts that PacTel should provide further detail to enable the Commission to determine that there will be no discrimination between affiliated and unaffiliated PSPs.<sup>77</sup> We find that PacTel is not required by our CEI rules to furnish the additional information requested by Telco in order to satisfy the technical characteristics

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<sup>72</sup> Payphone Order at para. 200; Reconsideration Order at para. 211.

<sup>73</sup> PacTel CEI Plan at 6.

<sup>74</sup> Telco Comments at 2-3.

<sup>75</sup> Payphone Order at paras. 199-207; Reconsideration Order at paras. 218-220; Phase I Order, 104 FCC 2d

requirement. We therefore conclude that PacTel's CEI plan comports with the technical characteristics CEI requirement. To the extent that Telco obtains credible evidence that PacTel has unlawfully discriminated against unaffiliated PSPs in the assignment of access lines, Telco may initiate a formal complaint action against PacTel.<sup>78</sup>

## 5. Installation, Maintenance, and Repair

28. The Payphone Order requires BOCs to describe in their CEI plans how they will comply with the nondiscrimination requirements in Computer III and ONA regarding the quality of service, installation, and maintenance.<sup>79</sup> This requirement ensures that the time periods for installation, maintenance, and repair of the basic services and facilities included in a CEI offering to unaffiliated PSPs are the same as those the carrier provides to its own or its affiliated payphone service operations.<sup>80</sup> BOCs also must satisfy reporting and other requirements showing that they have met this requirement.<sup>81</sup>

29. In its CEI plan, PacTel states that "its procedures ensure that the time periods for installation, maintenance, and repair of the basic services and facilities provided to independent PSPs are the same as [it] furnish[es] to [its] own payphone operation."<sup>82</sup> For example, PacTel represents that its employees are trained to process work according to due dates (for service installation) and customer commitment times (for trouble reports), and that many of its systems monitor due dates or commitment times to ensure that work is completed as agreed with the customer.<sup>83</sup> PacTel also avers that its payphone operations will place orders for network services, and make trouble reports on network services and receive information on the status of network repairs, in the same way as do other PSPs.<sup>84</sup> In addition, PacTel states that all service orders are entered into its Service Order Retrieval and Distribution System with standard service intervals or customer-negotiated due dates.<sup>85</sup>

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<sup>78</sup> See 47 U.S.C. § 208.

<sup>79</sup> Payphone Order at para. 207.

<sup>80</sup> Payphone Order at para. 203; Phase I Order, 104 FCC 2d at 1041, para. 161.

<sup>81</sup> The Payphone Order does not impose any new continuing reporting requirement, because BOCs are already subject to reporting requirements pursuant to Computer III and ONA. BOCs must report on payphone services as they do for basic services. Phase I Order, 104 FCC 2d at 1041, para. 161. PacTel must provide quarterly reports on installation and maintenance of its basic services. Id. at 1055-1056, para. 192-193.

<sup>82</sup> PacTel CEI Plan at 7.

<sup>83</sup> Id. PacTel adds that it evaluates its employees on their ability to meet due dates and commitment times and the quality of the repair or installation service. Id.

<sup>84</sup> Id. at 8-9.

<sup>85</sup> Id. at 8

Finally, PacTel declares that, "[s]ubject to limited exceptions, trouble reports are worked on in the order received," and that the "primary consideration is the nature of the trouble."<sup>86</sup>

30. APCC and SDPA assert that PacTel's CEI plan must provide further detail regarding how it will provide installation, maintenance, and repair on a nondiscriminatory basis to unaffiliated PSPs.<sup>87</sup> For instance, APCC contends that, while PacTel states that independent PSPs will have comparable access to service order processing, installation, maintenance, and repair service, it does not indicate specifically what type of access is permitted to its payphone division personnel.<sup>88</sup> APCC also asserts that PacTel's plan must discuss PacTel's service ordering procedures when a location provider changes from a PacTel payphone to an independent PSP payphone, or vice versa, to assess whether service orders are treated equally in this context.<sup>89</sup> APCC argues that PacTel must specify the procedures it will use to ensure that PacTel will not engage in unfair marketing practices when its payphones are replaced by independent PSP payphones.<sup>90</sup> In addition, APCC insists that PacTel should amend or refile its CEI plan to state how maintenance and repairs will be handled for the installed base, where no network interface has yet been installed, and to identify for its payphone offerings the demarcation point between the switched network and a payphone provider's inside wire.<sup>91</sup>

31. APCC further asserts that, to the extent PacTel shares personnel, it must describe in detail what specific steps it will take to ensure that there will be no discrimination

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<sup>86</sup> Id. at 9.

<sup>87</sup> APCC Comments at 17; SDPA Comments at 4.

<sup>88</sup> APCC Comments at 14. See also SDPA Comments at 4-5 (the Commission should ensure that "PubCom will not have preferential access (e.g., via dedicated phone lines or electronic mail) to Pacific Bell's service-ordering systems or to the LEC's service-ordering or network installation personnel"); CPA Comments at 12-13 ("If PubCom is allowed access to Pacific Bell's LEC service ordering systems, . . . independent PSPs must be allowed equivalent access.")

<sup>89</sup> APCC Comments at 14.

<sup>90</sup> APCC Comments at 15 ("PacTel's service ordering procedures must specify that PacTel's payphone division is not notified when a new service order is placed for an IPP payphone").

<sup>91</sup> APCC Comments at 15. APCC claims that PacTel "discriminates against subscribers of its [COPT Service (Basic)] service (independent PSPs) and favors subscribers of its coin line service (its payphone division)," by treating the demarcation point differently depending on whether a payphone uses COPT Service (Basic) (network interface twelve inches within PacTel's protector or building terminal) or coin line service (demarcation point at the set). Id. at 16.

against independent PSPs.<sup>92</sup> Finally, CPA claims that PacTel has previously accorded the following accommodations, which facilitate efficient installation of payphone stations and enclosures, to its payphone operations: (1) special telephone numbers for ordering services and testing lines; (2) provision of duplicate keys to access lock boxes on customer premises; and (3) access to node boxes for efficient testing of lines.<sup>93</sup> CPA argues that if these accommodations continue to be accorded to PubCom, they must be accorded to all PSPs without discrimination.<sup>94</sup>

32. In its reply, PacTel reiterates that its payphone operations will place orders for network services in the same manner as other PSPs.<sup>95</sup> In addition, PacTel clarifies that its procedures for ordering network services will remain the same when a location provider changes a PacTel payphone division payphone to an independent PSP payphone, and vice versa,<sup>96</sup> and that its network personnel will not service payphones.<sup>97</sup> In response to APCC's concerns about repairs and maintenance for its installed base, PacTel states that, as set forth in its tariffs, the demarcation point is at the minimum point of entry.<sup>98</sup> In response to CPA, PacTel clarifies that: (1) PubCom will not have access to any special telephone numbers for ordering services and testing lines that are not available to all PSPs; (2) it will not provide PubCom keys to access lock boxes on customer premises; and (3) PubCom will not have access to node boxes for efficient testing of lines, unless such access is made available to other PSPs.<sup>99</sup> Finally, PacTel avers that, like any other PSP, its PSPs will not receive notification when a new service order is placed for an independent PSP payphone.<sup>100</sup>

33. On April 10, 1997, CPA filed an ex parte communication with the Commission, which alleged that Pacific Bell had recently initiated changes to its service order

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<sup>92</sup> APCC Comments at 17. APCC acknowledges that PacTel indicated that payphone division personnel will not service the network, but complains that PacTel "does not state that it will prohibit network personnel from servicing payphones." Id. at 16 (emphasis in original).

<sup>93</sup> CPA Comments at 18.

<sup>94</sup> Id.

<sup>95</sup> PacTel Reply at 29.

<sup>96</sup> Id. PacTel adds that, if conflicts arise over who is the location provider of record, its service center will stay out of the conflict, and PacTel will provide service to whomever qualifies for and orders the service from its tariff. Id. at 29-30.

<sup>97</sup> Id. at 30.

<sup>98</sup> Id.

<sup>99</sup> PacTel Reply at 30.

<sup>100</sup> Id. at 30-31.

procedures that are inconsistent with assurances made by Pacific Bell in its CEI plan and in responses to comments on that plan.<sup>101</sup> Specifically, CPA alleges that Pacific Bell has: (1) eliminated the assignment of account representatives to particular independent PSPs and required that all calls to the COPT Service Center be directed to a single telephone number; (2) required that payphone service regrade orders (*i.e.*, an order by an independent PSP requesting that it replace Pacific Bell's PSP operation in providing service at a particular location) be directed to PubCom in the first instance, rather than to the COPT Service Center;<sup>102</sup> (3) altered its procedures for confirming due dates for service orders; and (4) refused to process "supersedure" orders (which request the conversion of responsibility for a COPT line from one independent PSP to another) until any past due balance on the superseded account has been paid, and rejected such orders rather than holding them until payment has been made.<sup>103</sup> CPA further alleges that COPT Service Center representatives have informed independent PSPs that routine customer service tasks are on hold, because all of the center's resources are being devoted to system record changes to account for all PubCom's coin lines as tariffed COPT Coin lines.<sup>104</sup>

34. PacTel responds that COPT service orders for all PSPs must be submitted to and will be processed by Pacific Bell's COPT service center, regardless of whether an order replaces an existing Pacific Bell PSP service.<sup>105</sup> PacTel also represents that, under its new procedures, all regrades will be handled in the same manner.<sup>106</sup> PacTel states that, when any PSP seeks to replace the service of another PSP at a particular location, the incoming PSP has two choices: (1) request Pacific Bell to install an additional line at the location and incur installation costs, or (2) negotiate an agreement with the existing PSP to supersede the existing service to the incoming PSP, and incur much lower charges by avoiding installation charges.<sup>107</sup> PacTel represents that, historically, when an independent PSP sought to replace

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<sup>101</sup> Letter from Martin A. Mattes, Graham & James LLP on behalf of CPA, to William F. Caton, Acting Secretary, Federal Communications Commission (April 10, 1997) (CPA April 10 Ex Parte).

<sup>102</sup> CPA claims PubCom is unprepared to address service orders from independent PSPs, and that regrade orders are not being processed by Pacific Bell. Id. In addition, CPA argues that Pacific Bell's claims that it will not disclose or use the CPNI of independent PSPs without approval, except in the provision of service, and that PubCom will not receive notification of new service orders placed for independent PSP payphones, are contradicted by the requirement that independent PSPs must direct service orders for regrade service to PubCom. Id. (citing PacTel CEI Plan at 14, PacTel Reply at 31).

<sup>103</sup> Id.

<sup>104</sup> Id.

<sup>105</sup> Letter from Nancy K. McMahon, Senior Counsel, SBC Communications Inc., to William F. Caton, Acting Secretary, Federal Communications Commission (Apr. 11, 1997) (PacTel April 11 Ex Parte).

<sup>106</sup> Id.

<sup>107</sup> Id.

Pacific Bell PSP service, the COPT service center would forward information to a contract administrator, who would identify and attempt to resolve any contractual issues.<sup>108</sup> PacTel represents that, by contrast, when an independent PSP sought to replace another independent PSP, the PSPs negotiated supersedure among themselves, and that the COPT service center obtained the outgoing PSP's authority to supersede the account before processing the supersedure order.<sup>109</sup> PacTel represents that, now, all PSPs must negotiate a supersedure with the outgoing PSP, including Pacific Bell's PSP, before placing a supersedure order with the COPT service center, and that the service center has been informing independent PSPs that they must call Pacific Bell's PSP to regrade Pacific Bell PSP service.<sup>110</sup> PacTel adds that independent PSPs that do not want to negotiate a supersedure with Pacific Bell's PSP may, as always, submit a new installation order for the site at issue.<sup>111</sup>

35. In addition, PacTel acknowledges that it no longer assigns COPT service center representatives to particular accounts, but represents that a PSP that requests a particular representative will be transferred to that representative or, if the representative is not available, may elect to have the call returned by that representative or to work with another, available representative.<sup>112</sup> PacTel also represents that the COPT service center has not changed any of its procedures for confirming due dates to PSPs.<sup>113</sup> PacTel further represents that the requirement that an outgoing PSP account be paid in full before a supersedure order is processed is a long standing Pacific Bell policy.<sup>114</sup> Finally, PacTel represents that the COPT service center has not put routine customer tasks on hold pending completion of any

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<sup>108</sup> Id.

<sup>109</sup> Id.

<sup>110</sup> Id. PacTel claims that Pacific Bell's PSP operation has been staffed and ready to review the status of accounts and to negotiate supersedures as appropriate since April 1, 1997. Id. PacTel argues that the fact that PSPs must negotiate supersedures among themselves does not raise any CPNI issues or the possibility of improper notice of new service orders, because Pacific Bell's COPT service center will not disclose any such information regarding independent PSPs to its own PSP operation. Rather, an incoming PSP will have to disclose to Pacific Bell's PSP the same information that it would have to disclose to any other PSP that it seeks to replace. Id. PacTel states that it is unclear why the incoming PSP would have to disclose to Pacific Bell's PSP operation any more information than it would under the previous regrade process, of which CPA approves. Id.

<sup>111</sup> Id.

<sup>112</sup> Id.

<sup>113</sup> Id.

<sup>114</sup> Id. PacTel represents that the COPT service center holds a supersedure order until the balance is paid, and that a PSP that does not want to wait until the outgoing PSP has paid the account may either pay the balance due or submit a new installation order. Id. PacTel notes that the incoming PSP would have to obtain the amount of the balance due from the outgoing PSP. Id.

special project, and that the Center is not aware of any other deterioration in its ability to process service requests.<sup>115</sup>

36. We find that PacTel's CEI plan comports with the installation, maintenance, and repair requirement. We conclude that PacTel's CEI plan, together with the representations that PacTel has made in this proceeding, provide sufficient detail on the procedures it will employ to ensure that the installation, maintenance and repair functions will be performed on a nondiscriminatory basis. For example, PacTel represents that it will provide installation, maintenance and repair on a nondiscriminatory basis. In addition, PacTel represents that its payphone operations will place orders for network services, and make trouble reports on network services and receive information on the status of network repairs, in the same way as other PSPs, and that the time intervals for providing installation, maintenance and repair will be the same for all PSPs. We find that the record evidence with respect to PacTel's installation, maintenance and repair procedures for PSPs satisfies our CEI requirements.

37. We reject CPA's claim that certain changes to Pacific Bell's service order procedures are inconsistent with representations made by Pacific Bell in its CEI plan. We are satisfied that PacTel has adequately demonstrated that, as a result of these changes, all regrades and supersedure orders will be treated on a nondiscriminatory basis. In addition, we find that Pacific Bell's new procedures do not raise CPNI issues or the possibility of improper notice of new service orders. PacTel represents that Pacific Bell's COPT service center will not disclose any such CPNI regarding independent PSPs to its own payphone operation. The fact that an independent PSP that wants to supersede Pacific Bell's PSP at a particular location will have to negotiate with Pacific Bell's PSP does not alter our conclusion, because Pacific Bell avers that its COPT service center will not disclose any CPNI or information about new service orders to Pacific Bell's payphone operation. Moreover, as PacTel notes, independent PSPs that do not want to negotiate with Pacific Bell's PSP may always submit a new installation order for the site at issue. Additionally, CPA offers no authority, and we find no basis in the Commission's Payphone Orders or CEI rules, for requiring Pacific Bell to assign COPT service center representatives to particular accounts. Finally, we find that PacTel's representations -- namely that Pacific Bell's COPT service center has not changed any of its procedures for confirming due dates to PSPs, that Pacific Bell has long required outgoing PSPs' accounts to be paid in full before processing supersedure orders, and that the COPT service center has not put routine customer service tasks on hold -- adequately respond to the other concerns raised by CPA.

## 6. End User Access

38. With regard to payphone services, this parameter requires the BOC to provide to all end users the same network capabilities to activate or obtain access to payphone

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<sup>115</sup> Id.

services that utilize the BOCs facilities. This parameter also requires the BOC to provide all end users equal opportunities to obtain access to basic network facilities.<sup>116</sup>

39. According to PacTel, its payphone service operations will use the same tariffed services available to all independent PSPs.<sup>117</sup> As a result, PacTel's payphone service operations will only present end users with the same network-based operational characteristics that are available to independent PSPs for presentation to their end users.<sup>118</sup> PacTel represents that no unique abbreviated dialing or signaling arrangements, and no special service channel access arrangements, are or will be associated with its payphone service operations.<sup>119</sup> We find that PacTel's CEI plan comports with the end user access requirement established by the Commission.

## 7. CEI Availability

40. This requirement obligates a carrier's CEI offering to be available and fully operational on the date that it offers its corresponding payphone service to the public. The requirement also obligates the carrier to provide a reasonable time prior to that date when prospective users of the CEI offering can use the CEI facilities and services for purposes of testing their payphone service offerings.<sup>120</sup>

41. The payphone rulemaking proceeding established the following tariffing requirements for LECs. LECs must file tariffs in the states for basic payphone services that enable independent PSPs to offer payphone services using either smart or dumb payphones and for any unbundled features that the LECs provide to their payphone operations or to others.<sup>121</sup> LECs are not required to file tariffs for the basic payphone line for smart and dumb payphones with the Commission.<sup>122</sup> As stated in the Clarification Order, a LEC is required to file federal tariffs for payphone-specific, network-based features and functions "only if the

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<sup>116</sup> See Phase I Order, 104 FCC 2d at 1041, para. 162; Payphone Order at para. 199.

<sup>117</sup> PacTel CEI Plan at 10.

<sup>118</sup> Id.

<sup>119</sup> Id.

<sup>120</sup> The testing period is necessary "to balance the conflicting interests of the carrier, which should have a reasonable period to develop, test, and 'de-bug' its CEI offerings before making them publicly available, and other CEI users, such as competitors, that might suffer an unfair competitive disadvantage if carriers were able to test and perfect their . . . services -- particularly, their interconnection with the basic underlying facilities -- while withholding those same basic facilities from others." Phase I Order, 104 FCC 2d at 1041, para. 163.

<sup>121</sup> See Clarification Order at para. 8.

<sup>122</sup> Reconsideration Order at paras. 162-163.

LEC provides them separately and on an unbundled basis from the basic payphone line, either to its payphone operations or to others . . . ."<sup>123</sup>

42. The Clarification Order also granted all LECs a limited waiver of the federal tariffing requirements for unbundled features and functions that a LEC must meet before it is eligible to receive payphone compensation. Pursuant to this waiver, LECs must file interstate tariffs for unbundled features and functions within 45 days of the release date of the Clarification Order, with a scheduled effective date of no later than 15 days after the date the tariff is filed.<sup>124</sup> In addition, each BOC was required to file, by April 10, 1997, a written ex parte document that advises the Commission on the status of intrastate tariffs for the features and functions that it has not yet federally tariffed, and stating that it commits to filing federal tariffs for such features and functions within 45 days of the release date of the Order.<sup>125</sup>

43. PacTel represents that its underlying basic services are, and will be, available to its own payphone service operations and to independent PSPs at the same time in any given geographical service area.<sup>126</sup> PacTel also represents that all of Pacific Bell's CEI services, except inmate services for use with "dumb" payphones, have been available for testing and use by independent PSPs for many years prior to the filing of PacTel's new tariffs, and therefore no additional testing period is required.<sup>127</sup> PacTel adds that Nevada Bell's COPT Service (Basic) has, similarly, been available to independent PSPs for many years, and that no additional testing period is required for that service as well.<sup>128</sup> PacTel acknowledges that Pacific Bell's and Nevada Bell's Inmate Services for use with "dumb" payphones, Nevada Bell's Coin Line service, Nevada Bell's Charge-A-Call service, and Nevada Bell's Enhanced COPT access line service, have not been available to independent PSPs, but represents that these services have been in use by Pacific Bell or Nevada Bell for years.<sup>129</sup> PacTel contends that, if the Commission finds that a testing period would be required for these services absent a waiver, the Commission should grant Pacific Bell and Nevada Bell waivers of the testing period requirement, based on the same rationale that the

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<sup>123</sup> Clarification Order at para. 18.

<sup>124</sup> Clarification Order at paras. 21.

<sup>125</sup> Id. at para. 22.

<sup>126</sup> PacTel CEI Plan at 11.

<sup>127</sup> Id.; Letter from Jeffrey B. Thomas, Pacific Telesis, to Christopher Heimann, Policy Division, Common Carrier Bureau (April 1, 1997) ("Policy Division April 1 Ex Parte").

<sup>128</sup> Policy Division April 1 Ex Parte.

<sup>129</sup> Id.

Commission used to grant waivers of the network disclosure requirements.<sup>130</sup> PacTel represents that, if it adds other CEI services in future, it will provide independent PSPs a reasonable testing period prior to using such new basic service offerings in the provision of its payphone services.<sup>131</sup>

44. PacTel filed with its CEI plan its current state tariffs for payphone services.<sup>132</sup> With its reply, PacTel submitted new state tariffs for payphone services for both Pacific Bell and Nevada Bell.<sup>133</sup> According to PacTel, these new state tariffs were effective on April 1, 1997, for Pacific Bell, and are expected to be effective by April 15, 1997, for Nevada Bell.<sup>134</sup>

45. APCC contends that the CEI plan must be rejected on the ground that PacTel did not file federal tariffs.<sup>135</sup> It contends that, pursuant to the Reconsideration Order, PacTel must file tariffs for unbundled features at both the state and federal levels, and that the only service for which a federal tariff is not required is the basic access line.<sup>136</sup> APCC concludes that PacTel's plan cannot be approved until it has filed all required federal tariffs, including tariffs for coin line features.<sup>137</sup>

46. In an ex parte filing, PacTel represents that, in accordance with the requirements of the Clarification Order, Pacific Bell will file federal tariffs for the following unbundled features and functions: international direct distance calling, 10XXX selective

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<sup>130</sup> Id. PacTel contends that that rationale is applicable here, because providing a testing period prior to Pacific Bell's or Nevada Bell's continued use of these services would require interruption of customer service, which would be contrary to the public interest. Id. In the Payphone Order, the Commission waived the notice period for the disclosure of network information relating to basic network payphone service in order to ensure that payphone services would be provided on a timely basis consistent with the deregulatory requirements of that order. See, infra, para. 57.

<sup>131</sup> PacTel CEI Plan at 11.

<sup>132</sup> PacTel CEI Plan, Attachment A.

<sup>133</sup> PacTel Reply, Exhibit A.

<sup>134</sup> Policy Division April 1 Ex Parte; Policy Division March 20 Ex Parte.

<sup>135</sup> APCC Comments at 5.

<sup>136</sup> Id.

<sup>137</sup> Id.

blocking for bothway Basic COPT service, and answer supervision.<sup>138</sup> PacTel further represents that Nevada Bell will file federal tariffs for international direct distance calling.<sup>139</sup>

47. APCC also argues that PacTel must be required to disclose where coin line service is not available and whether PacTel has any payphones currently installed in those areas.<sup>140</sup> PacTel responds that there are no areas in Pacific Bell's or Nevada Bell's service territories where the BOC currently offers, or where, in future, the BOC will offer, payphone services to its affiliated payphone operations that are not available to unaffiliated PSPs.<sup>141</sup>

48. We find that PacTel's plan complies with the CEI availability requirement.<sup>142</sup> We reject APCC's argument that PacTel must file a federal tariff for all payphone service features and functions, except for the basic access lines for payphone services. As stated in the Clarification Order, BOCs need only submit federal tariffs for payphone-specific, network-based features and functions if the BOC provides them separately and on an unbundled basis from the basic payphone line, either to its payphone operations or to others.<sup>143</sup> As noted, PacTel has committed to file federal tariffs for international direct distance calling, 10XXX selective blocking for bothway Basic COPT service, and answer supervision in Pacific Bell's territory, and for international direct distance calling in Nevada Bell's territory.

49. We also conclude that PacTel is not required to identify in its CEI plan specific geographic areas where coin line service is not available or to state whether PacTel has any payphones in such areas. PacTel has provided sufficient information about the availability of such services. In addition, PacTel represents that there are no areas in its service territories where it currently offers, or will, in future, offer, payphone services to its affiliated payphone

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<sup>138</sup> Letter from Polly L. Brophy, Senior Counsel, SBC Communications Inc. ("SBC"), to William F. Caton, Acting Secretary, Federal Communications Commission (Apr. 10, 1997) (PacTel April 10 Ex Parte).

<sup>139</sup> Id.

<sup>140</sup> APCC Comments at 9.

<sup>141</sup> PacTel Reply at 26 ("For any services that are not available in some areas, that lack of availability would apply equally to our own PSPs as to others."). PacTel notes that its tariff states that its coin line service is "available in Pacific Bell's exchange areas of all exchanges as defined on maps filed as part of Pacific Bell's tariff schedules," and that this service is available throughout Nevada Bell's territory. Id.

<sup>142</sup> We note that our conclusion that PacTel's CEI plan complies with the CEI availability requirement, and therefore our approval of its CEI plan, is contingent on the effectiveness of PacTel's state tariffs for payphone services. As noted above, PacTel represents that its new tariffs for payphone services were effective on April 1, 1997, for Pacific Bell, and are expected to be effective by April 15, 1997, for Nevada Bell. We note further that, because we are relying on the states to review LEC tariffs for basic payphone services, our conclusion that PacTel has satisfied the CEI availability requirement does not represent a determination that PacTel's basic payphone services are tariffed in accordance with the requirements of Section 276.

<sup>143</sup> Clarification Order at para. 18.

operations without making such services available to independent PSPs. We find that PacTel is not required to identify how many of its payphones are "smart" payphones and how many are coin line. We find no basis in our CEI requirements or the payphone orders for directing PacTel to identify how many of its payphones are "smart" payphones and how many are coin line for purposes of satisfying our CEI requirements.

50. Finally, we grant PacTel's request that we waive the 90-day notice requirement for Nevada Bell's provision of COPT Service (Basic) service, Coin Line service, Charge-A-Call service, and Enhanced COPT access line service, and for Nevada Bell's and Pacific Bell's provision of Inmate Services for use with "dumb" payphones. Therefore, Nevada Bell and Pacific Bell may continue to provide such services through the use of the CEI offering described herein without first providing ninety days for unaffiliated carriers to test the service. This waiver is reasonable in this context because, unlike the provision of a new enhanced service, Nevada Bell and Pacific Bell have been offering payphone services using the foregoing services for many years.<sup>144</sup> To bar Nevada Bell and Pacific Bell from continuing to use such services to provide payphone services for a period of ninety days would result in a suspension of service. Nevada Bell and Pacific Bell are not, however, relieved of their obligation to permit unaffiliated PSPs upon request to conduct testing of the foregoing offerings. For purposes of approving this CEI plan, we simply waive the requirement that Nevada Bell and Pacific Bell may not offer the foregoing services before such testing is accomplished. PacTel states that if and when other basic services are deployed, it will provide independent PSPs a reasonable testing period prior to using such new basic service offerings in the provision of its payphone services.<sup>145</sup>

## 8. Minimization of Transport Costs

51. This requirement obligates carriers to provide competitors with interconnection facilities that minimize transport costs.<sup>146</sup> PacTel represents that its tariffed basic payphone services are not distance-sensitive, and thus all PSPs, including its own, pay the same price for such services regardless of distance from PacTel's central offices.<sup>147</sup> We find that PacTel's CEI plan comports with the minimization of transport costs requirement established by the Commission.

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<sup>144</sup> Policy Division April 1 Ex Parte.

<sup>145</sup> PacTel CEI Plan at 11.

<sup>146</sup> Payphone Order at paras. 202-03; Phase I Order, 104 FCC 2d at 1042, para. 164.

<sup>147</sup> PacTel CEI Plan at 11. PacTel adds that, if it does offer and use tariffed basic payphone services on a distance-sensitive basis, it will minimize transmission cost differences between its collocated unregulated payphone equipment and PSPs by using price parity standards that the Commission has approved. Id. (citations omitted).

## 9. Recipients of CEI

52. This requirement prohibits a BOC from restricting the availability of its CEI offering to any particular class of customer or PSP.<sup>148</sup>

53. PacTel avers that none of the tariffs for its payphone services restrict the ability of independent PSPs or any class of customers to purchase its payphone services.<sup>149</sup> We find that PacTel has proposed to provide service to CEI recipients in compliance with the Commission's requirements.

### B. Other Nonstructural Safeguards

54. In addition to the CEI requirements established in Computer III, and applied to BOC provision of payphone services in the Payphone Order,<sup>150</sup> a BOC that provides payphone services must comply with requirements regarding the use of customer proprietary network information (CPNI), disclosure of network information, and nondiscrimination reporting.<sup>151</sup>

#### 1. Customer Proprietary Network Information

55. The Payphone Order requires PacTel to explain how it will comply with the Computer III CPNI safeguards,<sup>152</sup> to the extent they are not inconsistent with section 222 of the Communications Act, as amended.<sup>153</sup> Although the requirements of section 222 became effective immediately upon enactment, the Commission has initiated a proceeding to consider regulations interpreting and specifying in more detail a telecommunications carrier's obligations under this provision.<sup>154</sup> The Commission has concluded that its existing CPNI regulations remain in effect, pending completion of the CPNI rulemaking, to the extent they do not conflict with section 222.<sup>155</sup>

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<sup>148</sup> Payphone Order at paras. 202-03; Phase I Order, 104 FCC 2d at 1042, para. 165.

<sup>149</sup> PacTel CEI Plan at 12.

<sup>150</sup> Payphone Order at para. 202. See also Reconsideration Order at para. 210.

<sup>151</sup> Phase II Order, 2 FCC Rcd at 3082, paras. 73-75.

<sup>152</sup> See Phase II Order, 2 FCC Rcd at 3095, para. 156.

<sup>153</sup> Payphone Order at para. 205 (citing 47 U.S.C. § 222 and CPNI NPRM).

<sup>154</sup> CPNI NPRM at para. 2.

<sup>155</sup> Id. at para. 3 (noting that, to the extent that the 1996 Act requires more of a carrier, or imposes greater restrictions on a carrier's use of CPNI, the statute governs).

56. In its payphone CEI plan, PacTel represents that it will comply with section 222 and all CPNI requirements adopted in the Commission's CPNI rulemaking proceeding.<sup>156</sup> PacTel also represents that it will not disclose or use the CPNI of independent PSPs without their approval, except in the provision of services to such PSPs.<sup>157</sup>

57. APCC claims that PacTel's payphone CEI plan does not offer sufficient information concerning how PacTel will comply with CPNI requirements, but rather merely states that PacTel will follow Computer III procedures, except where inconsistent with section 222.<sup>158</sup> APCC contends that PacTel should explain how it will protect, under nondiscriminatory conditions, the CPNI of PSPs, as well as the CPNI of PacTel's existing customers, including current customers of semi-public payphone service.<sup>159</sup> In addition, CPA argues that PubCom personnel should be denied access to service order, billing or other statistical information about PacTel's business or residence customers, and allowed access to directory information about such customers only on the same basis as other PSPs.<sup>160</sup> CPA contends that, if PubCom is allowed access to PacTel's LEC service ordering systems, those systems must be partitioned to protect LEC customers' CPNI and independent PSPs must be allowed equivalent access.<sup>161</sup>

58. APCC and CPA also argue that, since PacTel's existing tariffed semi-public service is being terminated pursuant to section 276, PacTel's payphone operations have no more right to access and use the CPNI of semi-public service customers than any other PSP.<sup>162</sup> APCC contends that the deregulation of semi-public service presents PSPs with a potential marketing opportunity to replace PacTel as the payphone service provider for these customers. APCC argues that semi-public customers should be provided notice and a meaningful opportunity to replace PacTel with another payphone service provider. It contends that PacTel must disclose how it will provide such notice in a neutral fashion, including giving such customers an opportunity to authorize disclosure of CPNI on a

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<sup>156</sup> PacTel Plan at 14.

<sup>157</sup> Id.

<sup>158</sup> APCC Comments at 22-24.

<sup>159</sup> APCC Comments at 23. See also Letter from Michael S. Wroblewski, on behalf of Peoples Telephone Company, Inc., to William S. Caton, Acting Secretary, Federal Communications Commission, dated March 5, 1997 (Peoples's March 5 Ex Parte).

<sup>160</sup> CPA Comments at 12.

<sup>161</sup> Id. at 12-13.

<sup>162</sup> APCC Comments at 24; CPA Comments at 14-15 (claiming that PubCom's exclusive access to semi-public customers' CPNI, combined with those customers' lack of information about competitive opportunities, threatens to defeat the Commission's goal of achieving a competitive market for pay telephone services).

nondiscriminatory basis to interested payphone providers without preference to PacTel's payphone operations.<sup>163</sup>

59. PacTel responds that its payphone personnel will not have direct access to its service order systems and will not have access to the CPNI of other PSPs.<sup>164</sup> In addition, PacTel states that it will comply with the Commission's rules to implement section 222, and that it anticipates that neither PubCom nor other PSPs will have access to the CPNI of location providers, except with their approval.<sup>165</sup> PacTel further claims that traffic information concerning the use of its deregulated semi-public payphones, as with public payphone service, belongs to PubCom, which is the purchaser of the line, not the site owner or the end users of the payphone.<sup>166</sup> PacTel adds that, even if the location owners were the subscribers to the telephone lines for semi-public service, it could not provide access to the CPNI to other PSPs without the location owners' written consent, because that would violate section 222(c)(1).<sup>167</sup> PacTel also contends that APCC's and CPA's proposal that PacTel be required to inform site owners about competitive options for semi-public payphone service would violate its First Amendment right to free speech, and that PacTel should not be required to perform marketing for its creditors.<sup>168</sup>

60. In providing payphone services, PacTel must comply with the Commission's pre-existing Computer III CPNI requirements, to the extent that they are consistent with section 222 of the 1996 Act, and any regulations adopted by the Commission pursuant to section 222. PacTel represents that it will comply with section 222 and all CPNI requirements adopted in the Commission's CPNI rulemaking proceeding. Accordingly, we find that PacTel's plan comports with CPNI requirements. In reaching this conclusion, we do not address issues raised by APCC and CPA relating to traffic information on the use of semi-public payphones. Issues relating to the interpretation of section 222, and how it relates to the Computer III CPNI rules, are being addressed in the CPNI rulemaking, and therefore will not be considered here. We do, however, reject APCC's and CPA's request that we require PacTel to inform site owners about competitive options for semi-public payphone

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<sup>163</sup> Id. at 24.

<sup>164</sup> PacTel Reply at 32.

<sup>165</sup> Id. (reserving the right to adjust its plans depending on the content of the Commission's order in the CPNI rulemaking).

<sup>166</sup> Id. at 32-33 (noting that the only difference between public payphone service and semi-public payphone service is that, with semi-public service, the PSP charges the site owner for placement of the payphone to make up for lower volumes of payphone usage).

<sup>167</sup> Id. at 33-34.

<sup>168</sup> PacTel Reply at 34 (noting that forcing ratepayers or PacTel's shareholders to pay for such marketing on behalf of its competitors would be inequitable).

service, because no such requirement was adopted in the Payphone Order or in the Reconsideration Order, or is otherwise required by our CEI rules.

## 2. Network Information Disclosure

61. The Payphone Order requires PacTel to disclose to the payphone services industry information about network changes and new network services that affect the interconnection of payphone services with the network.<sup>169</sup> PacTel must make that disclosure at the "make/buy" point, that is, when PacTel decides whether to make or to procure from an unaffiliated entity any product whose design affects or relies on the network interface through which a PSP interconnects with PacTel's public switched network.<sup>170</sup> PacTel must provide that information to members of the payphone services industry that sign a nondisclosure agreement within 30 days after the execution of the nondisclosure agreement.<sup>171</sup> PacTel also must publicly disclose technical information about a new or modified network service twelve months prior to the introduction of that service.<sup>172</sup>

62. In the Payphone Order, the Commission waived the notice period for the disclosure of network information relating to "basic network payphone services" in order to ensure that payphone services are provided on a timely basis consistent with the other deregulatory requirements of that order.<sup>173</sup> Pursuant to this waiver, network information disclosure on the basic network payphone services must have been made by the BOCs no later than January 15, 1997.<sup>174</sup>

63. In its plan, PacTel states that no disclosure of network information is required for its currently tariffed payphone services.<sup>175</sup> PacTel represents that interconnection between its PSPs and the underlying basic services is accomplished in all cases through existing published standard network interfaces, and that changes to existing network specifications or

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<sup>169</sup> Payphone Order at para. 206.

<sup>170</sup> Phase II Order, 2 FCC Rcd at 3086, para. 102.

<sup>171</sup> Phase II Order at 3091-3093, paras. 134-140.

<sup>172</sup> Id. at 3092, para. 136. We note that, under the Commission's rules, if a BOC is able to introduce the service within twelve months of the make/buy point, however, it may make public disclosure at the make/buy point. It may not, however, introduce the service earlier than six months after the public disclosure.

<sup>173</sup> Payphone Order at para. 146.

<sup>174</sup> See id.

<sup>175</sup> PacTel CEI Plan at 13.

publication of new interfaces are not required at this time.<sup>176</sup> PacTel also represents that it will continue to comply with all Commission network disclosure requirements as it develops new services or makes network changes that may affect the interconnection or interoperability of payphone services with the network.<sup>177</sup> Consistent with the requirements of the Payphone Order, PacTel made network disclosures in connection with its payphone services by January 15, 1997.<sup>178</sup> We therefore find that PacTel's CEI plan comports with the Commission's network information disclosure requirements.<sup>179</sup>

### 3. Nondiscrimination Reporting

64. In the Payphone Order, the Commission directed the BOCs to comply with the Computer III and ONA requirements regarding nondiscrimination in the quality of service, installation, and maintenance.<sup>180</sup> Specifically, BOCs are required to file the same quarterly nondiscrimination reports, and annual and semi-annual ONA reports, with respect to their basic payphone services that they file for other basic services to ensure that the BOCs fulfill the commitments made in their CEI plans with respect to the nondiscriminatory provision of covered service offerings, installation and maintenance.<sup>181</sup>

65. PacTel represents that, on a quarterly basis, it will track and report on the installation and maintenance intervals for basic payphone services provided to its payphone

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<sup>176</sup> Id.

<sup>177</sup> Id. at 13-14.

<sup>178</sup> See Letter from Denise Harris, Manager, Federal Regulatory Relations, Pacific Telesis, to William F. Caton, Secretary, Federal Communications Commission (Jan. 13, 1997); Letter from Denise Harris, Manager, Federal Regulatory Relations, Pacific Telesis, to William F. Caton, Secretary, Federal Communications Commission (Jan. 15, 1997).

<sup>179</sup> We note that, in its comments, CPA urged the Commission to require PacTel to provide timely network information disclosures with respect to various network elements and services, including the replacement or upgrading of switches, plans to offer and provide coin refund service and billing services to PubCom, and any call tracking system or service that PacTel develops. CPA Comments at 16-18. As discussed above, PacTel is only required to disclose to the payphone services industry information about network changes and new network services that affect the interconnection of payphone services with the network. PacTel committed to continue to comply with all Commission network disclosure requirements; nothing more is required at this time.

<sup>180</sup> Payphone Order at para. 207.

<sup>181</sup> See Payphone Order at para. 207; BOC ONA Reconsideration Order, 5 FCC Rcd 3084, 3096, Appendix B (1990), BOC ONA Amendment Order, 5 FCC Rcd 3103 (1990), Erratum, 5 FCC Rcd 4045, pets. for review denied, California II, 4 F.3d 1505 (9th Cir. 1993), recon., 8 FCC Rcd 7646 (1991), BOC ONA Second Further Amendment Order, 8 FCC Rcd 2606 (1993), pet. for review denied, California II, 4 F.3d 1505 (9th Cir. 1993); Phase II Order, 2 FCC Rcd at 3082, para. 73; and Filing and Review of Open Network Architecture Plans, CC Docket No. 88-2, Memorandum Opinion and Order, Phase I, 6 FCC Rcd 7646, 7649-50 (1991).

operations and the same intervals for all of its other customers, so that comparisons can be made.<sup>182</sup> PacTel further declares that its reports will contain the same types of information and be in the same format as the information and format the Commission approved in Computer III.<sup>183</sup> We find that PacTel's CEI plan comports with the Commission's nondiscrimination reporting requirements.

### C. Accounting Safeguards

66. In the Payphone Order and the Accounting Safeguards Order, the Commission concluded that it should apply accounting safeguards identical to those adopted in Computer III to BOCs providing payphone service on an integrated basis.<sup>184</sup> Pursuant to Computer III, the BOCs must adhere to certain accounting procedures to protect ratepayers from bearing misallocated costs. These safeguards consist of five principal elements: 1) the establishment of effective accounting procedures, in accordance with the Commission's Part 32 Uniform System of Accounts requirements and affiliate transactions rules, as well as the Commission's Part 64 cost allocation standards; 2) the filing of cost allocation manuals (CAMs) reflecting the accounting procedures and cost allocation standards adopted by the BOC; 3) mandatory audits of carrier cost allocations by independent auditors, who must state affirmatively whether the audited carriers' allocations comply with their cost allocation manuals; 4) the establishment of detailed reporting requirements and the development of an automated system to store and analyze the data; and 5) the performance of on-site audits by Commission staff.<sup>185</sup> PacTel must comply with these accounting safeguards. We note that the approval granted to PacTel in this order is contingent upon the CAM amendments associated with PacTel's provision of payphone service going into effect.

### D. Other Issues

#### 1. Sufficiency

67. APCC, SDPA, and Telco generally assert that PacTel's CEI plan insufficiently describes how PacTel intends to comply with the CEI requirements, and request the

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<sup>182</sup> PacTel CEI plan at 13.

<sup>183</sup> Id.

<sup>184</sup> Payphone Order at para. 157, para. 199, and para. 201; Implementation of the Telecommunications Act of 1996: Accounting Safeguards Under the Telecommunications Act of 1996, CC Docket No. 96-150, Report and Order, FCC 96-490, at para. 100 (rel. Dec. 24, 1996).

<sup>185</sup> BOC Safeguards Order, 6 FCC Rcd at 7591, para. 46.

Commission to require PacTel either to amend or to refile its plan.<sup>186</sup> As discussed above, we find that PacTel adequately complies with each of the CEI requirements.

## 2. Tariffing Issues

68. APCC raises various objections to the content of PacTel's state tariffs.<sup>187</sup> PacTel responds that the Commission should not allow APCC to turn this CEI proceeding into a tariff proceeding.<sup>188</sup> PacTel argues that the Commission delegated to the states the responsibility for reviewing tariffs for basic payphone lines.<sup>189</sup>

69. We agree with PacTel that this is not the appropriate proceeding to address whether PacTel's tariffed rates are cost-based and non-discriminatory. The Commission stated in the Reconsideration Order that it would "rely on the states to ensure that the basic payphone line is tariffed by the LECs in accordance with the requirements of Section 276."<sup>190</sup> That order required that the tariffs for these LEC services must be: (1) cost based; (2) consistent with the requirements of section 276 with regard, for example, to the removal of subsidies from exchange and exchange access services; and (3) nondiscriminatory.<sup>191</sup> In addition, the order established that "[s]tates must apply these requirements and the Computer III guidelines for tariffing such intrastate services."<sup>192</sup> The order further stated that "[w]here LECs have already filed intrastate tariffs for these services, states may, after considering the requirements of this order, the Report and Order, and section 276 conclude: 1) that existing tariffs are consistent with the requirements of the Report and Order as revised herein; and 2) that in such case no further filings are required."<sup>193</sup> Finally, the Commission noted that "[s]tates unable to review these tariffs may require the LECs operating in their state to file these tariffs with the Commission."<sup>194</sup> Thus, state and federal payphone tariff proceedings are

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<sup>186</sup> APCC Comments at 1-2, Telco Comments at 2-3, SDPA Comments at 3-4.

<sup>187</sup> APCC Comments at 6-8.

<sup>188</sup> PacTel Reply at 24 (noting that "[j]ustification of rates has never been a requirement of CEI plans").

<sup>189</sup> Id. at 24-25 (noting that Pacific Bell's and Nevada Bell's existing rates and terms for COPT basic service have already been approved, and that PacTel's new tariffs for payphone services are currently before the California PUC and the Nevada PSC).

<sup>190</sup> Reconsideration Order at para. 163.

<sup>191</sup> Reconsideration Order at para. 163; see also id. at n.492 (noting that the "new services required in the Report and Order is described at 47 C.F.R. Section 61.49(g)(2)").

<sup>192</sup> Id.

<sup>193</sup> Id.

<sup>194</sup> Id.

the appropriate fora to address complaints concerning tariffed rates, terms and conditions for payphone services.

70. On April 11, 1997, CPA filed an ex parte communication with the Commission, which expresses concern that Pacific Bell has filed a request with the California Public Utilities Commission ("CPUC") to defer cancellation of Pacific Bell's tariff for Public Access Line ("PAL") service from April 14, 1997, until April 30, 1997.<sup>195</sup> Pacific Bell sought the extension to ensure "a smooth and successful conversion of the detariffed product to a product that is offered under tariff with minimal disruption of the COPT customer as well as the end user."<sup>196</sup> CPA argues that the "late admission by Pacific itself that it is having trouble confirms that the transition to detariffed payphone operations is not going smoothly at Pacific Bell," and urges the Commission not to approve PacTel's CEI plan until Pacific Bell has satisfactorily responded to CPA's concerns.<sup>197</sup> We find that the Pacific Bell's request to the CPUC for a limited extension of the removal of Pacific Bell's tariff for PAL service until April 30, 1997, does not suggest that the "transition to detariffed payphone operations is not going smoothly at Pacific Bell," nor does it warrant disapproval of PacTel's CEI plan.<sup>198</sup> To the extent CPA obtains credible evidence that Pacific Bell has failed to comply with the requirements of the Payphone Orders, or with the terms of its CEI plan, CPA may initiate a formal complaint action against Pacific Bell.<sup>199</sup>

### 3. Screening Codes

71. APCC and MCI contend that PacTel is required, pursuant to the Reconsideration Order, to provide PSPs using COPT Service (Basic) lines with screening code digits that uniquely identify their lines as payphone lines.<sup>200</sup> APCC asserts that if PacTel

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<sup>195</sup> Letter from Martin A. Mattes, Graham & James LLP on behalf of California Payphone Association, to William F. Caton, Acting Secretary, Federal Communications Commission (April 11, 1997) ("CPA April 11 Ex Parte"). Public Access Line service is an access service on which a payphone can be placed.

<sup>196</sup> Id. (quoting Letter of Mary L. Vanderpan, Regulatory Vice President, Pacific Bell, to Wesley M. Franklin, Executive Director, California Public Utilities Commission (April 10, 1997)).

<sup>197</sup> Id.

<sup>198</sup> We note that it does not appear, nor does CPA allege, that the removal by Pacific Bell of its PAL service will affect the availability of Pacific Bell's payphone CEI services, the state tariffs for which went into effect on April 1, 1997. PacTel April 11 Ex Parte.

<sup>199</sup> See 47 U.S.C. § 208.

<sup>200</sup> APCC Comments at 18-21 (asserting that if PacTel transmits a unique code only on its coin lines, which are primarily used only by PacTel's own payphone division, and not on its COPT Service (Basic) lines, which are primarily used by independent PSPs, PacTel is discriminating in favor its payphone division by providing it a great advantage in the collection of per-call compensation from interexchange carriers); MCI Comments at 1-2. Screening code digits allow interexchange carriers (IXCs) to track payphone calls for the purpose of paying per-

transmits a unique screening code only on its coin lines, which are primarily used by PacTel's own payphone division, and not on its COPT Service (Basic) lines, which are primarily used by unaffiliated PSPs, PacTel is discriminating in favor its payphone division by providing it a great advantage in the collection of per-call compensation from interexchange carriers. In addition, MCI maintains that PacTel's plan does not provide screening code digits that can be transmitted by PSPs for all access methods and from all locations.<sup>201</sup>

72. PacTel responds that the Commission has acknowledged that a LIDB-based solution is a suitable means of identifying an originating line as a payphone line.<sup>202</sup> PacTel represents that it is taking that approach.<sup>203</sup> In addition, PacTel argues that it is not required to provide the same screening capability to COPT Service (Basic) and coin lines, on the ground that the relevant CEI requirements are satisfied so long as the basic network capabilities it provides to its PSPs are available under tariff to other PSPs.<sup>204</sup>

73. We find that the issue of whether PacTel is providing screening information in compliance with the requirements established in the payphone rulemaking is outside the scope of the CEI review process and is more appropriately addressed in that proceeding or in other proceedings.<sup>205</sup>

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call compensation to LECs. As APCC states, "with a unique screening code, the IXC knows immediately that a call is compensable, and should not have to take any further steps in order to calculate the compensation due for each particular ANI invoiced by an [independent PSP]." APCC Comments at 21. APCC, CPA, AT&T, and MCI also contend that PacTel must provide the same screening capability to COPT Service (Basic) and coin lines. APCC Comments at 18-19; CPA Comments at 4, AT&T at 2; and MCI Comments at 3.

<sup>201</sup> MCI Comments at 3. For example, MCI states that LECs "do not provide [automatic numbering identification] or information digits with feature group B access and from non-equal access areas." MCI contends that, "[a]ccordingly, PSPs would not be able to transmit specific payphone coding digits from payphones in these circumstances and, therefore, they would not be eligible for compensation." *Id.*

<sup>202</sup> PacTel Reply at 12 (citing Policies and Rules Concerning Operator Service Access and Pay Telephone Compensation, CC Docket No. 91-35, Third Report and Order, 11 FCC Rcd 17021, para. 34 (rel. Apr. 5, 1996)). LIDB, or the line identification data base, is offered through regional data bases called service control points, and provides a variety of database services. A LIDB-based solution relies upon the line identification data base to provide originating line screening. Under a LIDB-based solution, an interexchange carrier would have to query the LIDB database each time it receives an "07" code (which simply indicates that the originating line is a restricted line, and not that it is a payphone line) in order to obtain more detailed information about billing restrictions on the originating line.

<sup>203</sup> *Id.* at 13.

<sup>204</sup> PacTel Reply at 13.

<sup>205</sup> See, e.g., Policy and Rules Concerning Operator Service Access and Pay Telephone Compensation, CC Docket No. 91-35, CCB/CPD File Nos. 96-18, 96-25, and 96-32, Memorandum Opinion and Order, DA 96-2169, at 2 n.7 (rel. Dec. 20, 1996) (citing MCI petition for clarification of LECs' obligation to provide screening code digits, and stating that MCI's petition would be addressed in a subsequent order). We note that in its

#### 4. Numbering Assignments

74. According to APCC, the Payphone Order requires LECs to assign line numbers to payphones on a nondiscriminatory basis.<sup>206</sup> It contends that PacTel's CEI plan is deficient in that it does not address the assignment of numbers.<sup>207</sup> For example, APCC maintains that PacTel should be required to reallocate the numbers assigned to the existing base of payphones, without charge, so that an equal percentage of LEC payphones and PSPs are assigned 8000 and 9000 series numbers.<sup>208</sup> In reply, PacTel asserts that it will make number assignments on a nondiscriminatory basis.<sup>209</sup>

75. We agree with APCC that the Payphone Order requires LECs to provide numbering assignments on a nondiscriminatory basis; it did not, however, require LECs to reallocate existing number assignments.<sup>210</sup> PacTel represents that it will assign payphone numbers on a nondiscriminatory basis. We conclude that no further showing is required by PacTel in the context of this CEI plan.

#### 5. Dialing Parity

76. MCI asserts that PacTel does not explain how it will comply with the dialing parity requirement in the Payphone Order, including access to operator services, directory assistance, and directory listings.<sup>211</sup> PacTel responds that this issue should not be dealt with here. It represents that the Commission "'conclude[d] that the technical and timing

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Reconsideration Order, the Commission stated that, once per-call compensation becomes effective, "[e]ach payphone must transmit coding digits that specifically identify it as a payphone, and not merely as a restricted line." Reconsideration Order at para. 64. That order further required that "all LECs must make available to PSPs, on a tariffed basis, such coding digits as part of the ANI for each payphone." Id.

<sup>206</sup> APCC Comments at 17 (citing Payphone Order at para. 149).

<sup>207</sup> Id. at 17.

<sup>208</sup> Id. at 17-18 n.16. APCC states that assignment of numbers in the 8000 to 9000 range provides a distinct advantage in the prevention of fraud by alerting overseas operators to refrain from completing collect calls to such numbers. See also CPA Comments at 6 (urging the Commission to require PacTel to commit to assign ANIs in the 8000 or 9000 series to COPT stations on a first come, first served basis, and to facilitate reassignment of payphone ANIs).

<sup>209</sup> PacTel Reply at 15. PacTel notes that the same service representatives will take orders for its PSPs as for other PSPs, and that, if a customer asks for a particular number or number series (including one in the 8000 and 9000 range), and it is available in the desired area, that customer will receive the number on a first-come, first-served basis. Id.

<sup>210</sup> Payphone Order at para. 149.

<sup>211</sup> MCI Comments at 3-4.

requirements established pursuant to Section 251(b)(3), and Section 271(c)(2)(B), should apply equally to payphones," and that it "will apply those requirements to payphones in connection with implementing those sections of the Act."<sup>212</sup>

77. The Payphone Order concluded that the dialing parity requirements adopted pursuant to section 251(b)(3) of the 1996 Act should extend to all payphone location providers.<sup>213</sup> The Commission stated that such dialing parity for payphones should be implemented at the same time as dialing parity for other telephones.<sup>214</sup> PacTel must, of course, comply with these requirements. We conclude, however, that PacTel is not required, as part of the CEI process, to demonstrate how it will comply with these requirements. In the Payphone Order, the Commission specified that a BOC's CEI plan must describe how it will conform to the CEI requirements with respect to the specific payphone services it intends to offer and how it will unbundle those basic payphone services.<sup>215</sup> Therefore, MCI's request that PacTel be required to elaborate upon how it intends to comply with the dialing parity requirement is outside the scope of this CEI review proceeding.

## 6. Uncollectibles

78. AT&T asserts that PacTel must explain its treatment of uncollectibles due to fraud. AT&T contends that, to the extent PacTel establishes a policy of foregoing uncollectibles due to fraud for its payphone service affiliates, the same treatment must be accorded to non-affiliates.<sup>216</sup> PacTel represents that it does not discriminate in its treatment of uncollectibles, and that it will respond to issues concerning the accounting treatment of uncollectibles in CAM proceedings.<sup>217</sup> We find that, while the Payphone Order generally requires that fraud protection must be available on a nondiscriminatory basis, it does not establish any specific requirements for uncollectibles. Because the issue of the treatment of uncollectibles appears to raise principally accounting matters, that issue will be addressed in the review of PacTel's CAM.

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<sup>212</sup> PacTel Reply at 11 (citing Payphone Order at para. 292).

<sup>213</sup> Payphone Order at para. 292.

<sup>214</sup> Id.

<sup>215</sup> Payphone Order at para. 203-04.

<sup>216</sup> AT&T Comments at 3.

<sup>217</sup> PacTel Reply at 36-37.

## 7. Operator Services

79. APCC contends that PacTel's CEI plan fails to specify whether PacTel considers operator services to be part of its deregulated payphone service.<sup>218</sup> APCC claims that, if PacTel's operator services are regulated, PacTel must demonstrate that it is not subsidizing its payphone operations or discriminating between its payphone operations and other PSPs in the provision of these services. For example, if PacTel is offering a commission to its payphone operations for presubscribing its payphones to PacTel's operator services, then such commissions must also be available to unaffiliated PSPs on the same terms and conditions.<sup>219</sup> Operator services are regulated services. Because PacTel must offer such services to affiliated and unaffiliated PSPs on a nondiscriminatory, tariffed basis, PacTel's CEI plan is not deficient because it does not address whether PacTel considers operator services to be part of its deregulated payphone service. We note that, in the Reconsideration Order, the Commission declined to require LECs to make available, on a nondiscriminatory basis, any commission payments provided to their own payphone divisions in return for the presubscription of operator service traffic to the LEC, because the Commission concluded that the level of 0+ commissions paid pursuant to contract on operator service calls was beyond the scope of section 276 and the Payphone proceeding.<sup>220</sup>

## 8. Inmate Calling Services Issues

80. The Inmate Calling Service Provider Coalition (ICSPC) raises a number of issues related to the provision of inmate calling services (ICS). ICSPC contends that PacTel should be required to identify the network support and tariffed services it will provide to its ICS operations.<sup>221</sup> ICSPC also argues that PacTel must disclose whether its regulated operations will provide its ICS operations with inmate call processing and call control functions and information for fraud protection, and the validation of called numbers.<sup>222</sup> ICSPC contends that such services or information must be provided to other carriers on a nondiscriminatory basis. According to ICSPC, PacTel's failure to describe its provision of ICS in detail prevents the Commission from determining whether PacTel has complied with the requirements of section 276.<sup>223</sup> In addition, ICSPC asserts that PacTel should be required

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<sup>218</sup> APCC Comments at 21-22.

<sup>219</sup> Id. at 22.

<sup>220</sup> Reconsideration Order at para. 52.

<sup>221</sup> ICSPC Comments at 2-3, 10.

<sup>222</sup> Id. at 10-12, 14-16, 18.

<sup>223</sup> Id. at 3.

to disclose whether its payphone operations will be responsible for the cost of ICS calls for which its payphone operations are unable to collect the charges.

81. ICSPC also asserts that PacTel must show that any call processing and call control system used for its ICS is being provided on a deregulated basis, regardless of whether that system is located at a central office or at a customer premises.<sup>224</sup> According to ICSPC, to the extent PacTel's call processing and call control systems dedicated to ICS are located in PacTel's central offices, PacTel must provide physical or virtual collocation to other providers.<sup>225</sup> ICSPC also contends that PacTel must disclose information on interfaces between PacTel's equipment dedicated to ICS and its regulated network support services, so that other providers can utilize the same interface if they wish.<sup>226</sup>

82. In a subsequent *ex parte* filing,<sup>227</sup> ICSPC argues that section 276 requires the BOCs to treat collect call processing for ICS as part of their nonregulated ICS operations, because collect calling is fundamental to ICS.<sup>228</sup> According to ICSPC, if a BOC's ICS operation "hands off" collect calls to its network-based operator services division for processing and that division assumes the responsibility and risk associated with billing and collecting for those calls, then the BOC is essentially providing ICS as a regulated service and is still subsidizing that service contrary to the prohibition in section 276.<sup>229</sup>

83. In response to ICSPC's arguments, PacTel represents that it described in its CEI plan the tariffed network services that it will provide to its ICS, and which are available to all other providers of ICS service at the same rates, terms and conditions.<sup>230</sup> PacTel also represents that all of the descriptions concerning how it will meet CEI requirements for payphone service apply equally to ICS, because ICS is included in the definition of payphone service in section 276, and its CEI plan applies to all services meeting that definition.<sup>231</sup> In addition, PacTel represents that its call control and call processing functions are performed in

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<sup>224</sup> Id. at 10.

<sup>225</sup> Id. at 18.

<sup>226</sup> Id. at 18-19.

<sup>227</sup> See Letter from Albert H. Kramer to William F. Caton, Secretary, Federal Communications Commission (Mar. 19, 1997) (ICSPC *Ex Parte* Response).

<sup>228</sup> Id. at 1-2.

<sup>229</sup> Id. at 2.

<sup>230</sup> PacTel Reply at 35.

<sup>231</sup> Id. (noting that its positions on billing services, operator services, tracking codes/LIDB, and other issues mentioned by ICSPC are the same regarding ICS payphone services as they are for payphone service in general).